

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

UNITED STATES OF AMERICA

Plaintiff,

:

Case No. 3:09-cr-121

-vs-

District Judge Thomas M. Rose

Magistrate Judge Michael R. Merz

:

SHAWN LAUDERDALE,

Defendant.

ORDER TO HOLD IN ABEYANCE

This case is before the Court on Defendant's Motion to Vacate pursuant to 28 U.S.C. § 2255 (Doc. No. 66). The case has been referred to the undersigned pursuant to the Dayton location of court General Order of Assignment and Reference.

Upon examination of the docket, it appears Defendant has a pending appeal to the Sixth Circuit Court of Appeals from this Court's denial of his Motion to reduce his sentence (Case No. 12-3664). This Court lacks jurisdiction to consider the § 2255 Motion while the appeal is pending. *Marrese v. American Academy of Osteopathic Surgeons*, 470 U.S. 373 (1985); *Pickens v. Howes*, 549 F.3d 377, 381 (6th Cir. 2008); *Pittock v. Otis Elevator Co.*, 8 F.3d 325, 327 (6th Cir. 1993); *Lewis v. Alexander*, 987 F.2d 392, 394 (6th Cir. 1993); *Cochran v. Birkel*, 651 F.2d 1219, 1221 (6th Cir. 1981).

Accordingly it is hereby ORDERED that the § 2255 Motion be held in abeyance pending the outcome of the pending appeal.

May 15, 2013.

s/ *Michael R. Merz*
United States Magistrate Judge